

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. 12/12/01 Item: 4.g
<div>STAFF REPORT</div>		File Number CP01-06-046
		Application Type Conditional Use Permit
		Council District 5
		Planning Area Alum Rock
		Assessor's Parcel Number(s) 488-12-002 & 488-12-003
PROJECT DESCRIPTION		
Completed by: Bill Scott		
Location: West side of White Road approximately 400-feet northerly of Park Lane (1555 White Road)		
Gross Acreage: 3.23      Net Acreage: 3.23      Net Density: n/a		
Existing Zoning: R-1-8      Existing Use: Church and single-family detached residence		
Proposed Zoning: No Change      Proposed Use: Expansion of private school (grades k through 12) on an existing Church site and single-family detached residence		
GENERAL PLAN		
Completed by: BS		
Land Use/Transportation Diagram Designation Public/Quasi Public		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		
Completed by: BS		
North:	Single-Family Detached Residential	R-1-8 Residence
East:	Single-Family Detached Residential	R-1-8 Residence
South:	Single Family Detached Residential	R-1-8 Residence
West:	Single-Family Detached Residential	R-1-8 Residence
ENVIRONMENTAL STATUS		
Completed by: BS		
<input type="checkbox"/> Environmental Impact Report found complete <input checked="" type="checkbox"/> Negative Declaration circulated on November 21, 2001 <input type="checkbox"/> Negative Declaration adopted on		<input type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		
Completed by: BS		
Annexation Title: Hillview No 4-A		
Date: April 3, 1958		
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
APPLICANT/DEVELOPER	OWNER	
James h. Hough Mount Calvary Lutheran Church of San Jose 1555 South White Road San Jose, CA 95127		

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: BS

Department of Public Works

See attached Memorandum.

Other Departments and Agencies

See attached Memorandum from the Fire Department,

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**GENERAL CORRESPONDENCE**

None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant, Mount Calvary Lutheran Church, is requesting approval of a Conditional Use Permit to allow the addition of a private school to an existing church site. A Conditional Use Permit is required for the construction or expansion of church and private school uses in the R-1-8 Residence district.

The 3.23-acre subject site consists of two adjoining parcels. The smaller parcel on the northerly end of the subject site is 0.48 acre in size and contains a single-family detached residence used by the church's pastor. The larger parcel is 2.75 acres in size and contains two primary structures, a 2,600 square-foot church building and a 2,700 square-foot Sunday school building, located at the front of the parcel near White Road. The church is a two-story structure built in the early-1960's and has a sanctuary capacity of approximately 160 seats. An existing 34-space parking lot is located on the north side of the church. The rear half of the parcel (approximately 1.3 acres) is currently vacant.

The project site is surrounded by single-family detached residential uses to the north, south, west and to the east across White Road.

**PROJECT DESCRIPTION**

The applicant is proposing to add a private school to the existing church site. The proposed private school has a maximum enrollment of 195 full-time students and includes grades kindergarden through 12. The school will operate with a maximum of 20 teachers and staff.

The school campus would consist of two new buildings; (1) a 13,046 square-foot (200 seat) gymnasium to be located at the rear of the site; and (2) a 7,725 square foot single-story classroom building to be constructed behind the existing church. Approximately 5,000 square-feet of hardcourt outdoor play area would be constructed behind the school buildings in the southwesterly corner of the site. A third existing single-story structure adjacent to the church at the front of the site would be converted to 3,522 square-feet of classroom space. All of the proposed buildings would have stucco facades, low-pitched metal roofs and aluminum frame windows.

The project also includes the addition of 38 parking spaces for a total of 72 spaces on site. An 18-foot wide driveway would provide one-way access for 60 of the parking spaces at the northerly end of the site. Of those, 42 spaces are located at the front of the site and 18 spaces are provided at the rear of the site, accessed via a 26-foot wide two-way driveway extending from the rear of the larger parking lot. Another 20-foot wide two-way driveway is located at the southerly end of the site to provide access to twelve parking spaces reserved for use by teachers.

Two small accessory structures will be demolished to accommodate the project. The existing church and single-family detached residence will remain.

## **PUBLIC OUTREACH**

The applicant held a community meeting on August 2, 2001. The applicant made a brief presentation and the proposed plans were available for review prior to and after the meeting. Some residents expressed concern regarding the potential for increased traffic impacts in the vicinity.

A notice of the mitigated Negative Declaration and public hearing before the Planning Commission and City Council were published and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. Staff has been available to discuss the project with members of the public.

## **ENVIRONMENTAL REVIEW**

A Draft Mitigated Negative Declaration for this project was circulated for public review on November 21, 2001. The key issues addressed by the Negative Declaration were traffic and noise impacts.

*Noise.* The City's noise thresholds of significance for noise are based on the General Plan Noise Policies and Guidelines. General Plan Noise Policies specify that non-residential land uses located next to residential uses should mitigate noise from the non-residential operation to meet the 55 DNL guideline at the residential property line.

A noise report prepared by Edward Pack and Associates dated on July 12, 2001, analyzed potential noise impacts resulting from the project. The noise report assessed the potential noise generated at the residential property lines resulting from, (1) the gymnasium; (2) the parking lot; and, (3) the outdoor courts. The report concluded that the proposed project with all of its daytime activities for during the day would generate up to 55 DNL. The noise generated from the private school, particularly children playing outdoors, may result in intermittent noise disturbances; however, the noise level generated from the proposed development does not exceed 55DNL. The noise report concluded that the increase in noise exposures due to the project will be less than significant.

Although the noise analysis concluded that mitigation measures for project-generated noise impacts would not be required, the following measures have been included in the project to further ensure that the project does not result in noise impacts to adjacent properties: (1) the project will be conditioned to limit use of the outdoor play area to daytime hours only; (2) all amplified sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent sound from emanating outside; (3)

doors to the gymnasium shall remain closed during all extracurricular activities; (4) the project will include a 7-foot masonry wall around the project perimeter to further screen church and school activities from adjacent residential uses; and (5) no roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that the noise level from such equipment will not exceed 55 DBA at the residential property line.

A recent amendment to Title 20 provides noise standards for new development. Table 20-85 of the Zoning Code specifies that the maximum noise levels generated by any use or combination of uses shall not exceed 55dB at the adjacent residential property line except upon issuance of and in compliance with a Conditional Use Permit (CUP). This provision allows an alternative standard to be established through a CUP for those land uses which are generally considered compatible adjacent with residential uses but which may not realistically meet the Title 20 performance standards (such as schools, churches, public parks, and parking lots). The current proposal is expected to exceed these very restrictive maximum noise standards, as would the existing church facility. The General Plan's 55 dB DNL (day night average level) would be a more appropriate standard for the proposed use. Based on the recommendation that sound mitigation measures be implemented as discussed above, staff has determined that this facility can operate without undue disturbance to adjacent residential uses and is recommending that this standard be incorporated into the Permit.

*Traffic.* A traffic impact analysis prepared by Hexagon Transportation Consultants, Incorporated, dated July 6, 2001, analyzed potential traffic impacts resulting from the project. The report identifies a potentially significant impacts at the intersections of White Road and Ocala Avenue and White Road and Story Road. Mitigation is proposed for these traffic impacts to reduce the project's potential environmental impacts to a less than significant level.

To mitigate traffic impacts the project developer will: (1) lengthen the northbound White Road/Story Road left-turn pocket from 200 feet to 370 feet; (2) lengthen the eastbound White Road/Ocala Avenue left-turn pocket from 200 feet to 240 feet; and, (3) change the westbound through lane and westbound right turn lane into two separate lanes at the intersection of White Road and Ocala Avenue by re-striping the westbound leg, acquiring additional right-of-way and providing a modification to the turn signal.

A Burrowing Owl survey shall be performed within 30 days of construction to confirm that no burrowing owls are occupying the site. If Burrowing Owls are present, the project shall implement State of California Fish and Game protocol prior to any disturbance of the site.

The Initial Study also analyzed stormwater runoff resulting from large amounts of impervious surface being placed onto the site but did not identify an impact per CEQA standards.

## **GENERAL PLAN CONFORMANCE**

The project site is designated Public/Quasi Public on the City's San Jose 2020 General Plan Land Use/Transportation Diagram. This designation permits institutions such as churches/places of religious assembly and private schools. The existing church and proposed private school conform to the site's General Plan designation of Public/Quasi Public.

## **ANALYSIS**

The primary issues for the proposed project are: (1) conformance with the Commercial Design Guidelines, (2) conformance with the parking requirements of the Zoning Ordinance, and (3) conformance with the City's Post Construction Urban Runoff Policy regulation of impervious surface coverage.

### **Commercial Design Guidelines**

The Commercial Design Guidelines specify a setback ratio of 1.5 feet for every foot of building height for institutional buildings adjacent to residential uses. The largest building being proposed is the 13,046 square-foot gymnasium. The gymnasium has a maximum height of 29.4 feet. The gymnasium is 17-feet six inches in height at the eave line at its closest point to the westerly residential property line. A 26.5-foot setback is proposed from the westerly property line in conformance with the Guidelines. The other two school buildings, the new classroom building located at the southerly side of the site and the reconfigured classroom building at the front of the site, are set back a minimum of 29.4 feet and 40-feet respectively from the nearest residential property line. These setbacks exceed the specifications of the Guidelines.

The applicant is proposing a perimeter landscape strip and a seven-foot masonry wall along the northerly, southerly and westerly property lines to provide a buffer between the proposed school facilities and the adjacent single-family residences. The perimeter landscape strip varies in width and at some points is less than the ten-foot minimum width recommended by the Commercial Design Guidelines; however, the average width of the perimeter landscape strip is approximately ten feet.

Landscaping, including a variety of canopy trees has been included along most of the project perimeter including the project frontage and in the parking lot. The perimeter landscaping provided is in substantial conformance with the 10-foot minimum recommended by the Guidelines.

### **Zoning Ordinance**

The Zoning Code parking requirement for private schools is one parking space per teacher/staff member for elementary schools and one parking space per teacher/staff plus one parking space for each five (5) students for secondary schools. The school is proposing a maximum of 20 teachers and staff and 60 secondary school students (grades 9 through 12) for a total parking requirement of 32 spaces. The parking requirement for a church is one space per 4 seats or six linear feet of pew. Based on the existing 160 maximum seating capacity in the sanctuary, the church's parking requirement is 40 spaces. The project includes a total of 72 parking spaces in conformance with the requirements of the Zoning Code. Although the Zoning Code parking requirement has been met a condition has been included in the Permit which would limit use of the sanctuary to the time that the school program is not in operation to further ensure that there are no parking impacts upon the surrounding neighborhood.

### **Impervious Surface Coverage.**

The City's Post Construction Urban Runoff Policy specifies that new development should be designed to minimize the amount of paved surfaces. As proposed, the project plans indicate that approximately 33,658 square-feet of the site would be covered with building area, 35,114 square-feet would be covered with parking and driveways and much of the project open space would also be paved,

including an approximately 5,000 square foot play area behind the new gymnasium. Pavement of this play area in conjunction with the proposed placement of buildings, parking, courtyards and hardscape on the site, provides extremely limited opportunities to provide turf open space areas. Revision of the outdoor play area to be turf-covered rather than paved would improve the project's conformance with the City's Post Construction Urban Runoff Policy and provide a more attractive recreational area for the school's students. The permit should be conditioned to require that the applicant provide revised plans depicting the outdoor play area to be covered with turf.

## **CONCLUSION**

Based on the above analysis, staff concludes that the proposed project is in substantial conformance with the Commercial Design Guidelines and Zoning Ordinance, consistent with the requirements of CEQA including conformance to the City's Transportation Level of Service Policy and compatible with the surrounding neighborhood. Provision of a turf outdoor play area would improve the recreational opportunities for students and establish conformance with the Post Construction Urban Runoff Policy.

## **RECOMMENDATION**

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San Jose 2020 General Plan Land Use Transportation Diagram.
2. The project site is located in the R-1-8 Residential Zoning District.
3. A Mitigated Negative Declaration has been granted for this project which indicates that certain mitigation measures will be incorporated into the project to prevent the occurrence of any significant adverse effect on the environment.
4. The permit includes demolition of a 400 square-foot out building in the R-1-8 Residence Zoning District.
5. The applicant is requesting a Conditional Use Permit on an existing 2.91-acre church site to allow construction of a private school. The proposed private school student enrollment is limited to a maximum of 195 students; of which up to 90 students will be grades kindergarden through 5; up to 45 students grades 6 through 8; and up to 60 students grades 8 through 12. The school will operate with a maximum of 20 teachers and staff.
6. A Conditional Use Permit is required for a private school in the R-1-8 Residence Zoning District. This Permit also serves as a Site Development Permit for construction of the proposed classroom building.

7. Surrounding uses include single-family detached homes to the north, south, west and to the east, across White Road.
8. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
9. The Commercial Design Guidelines specify a setback ratio of 1.5 feet for every foot of building height for institutional buildings adjacent to residential uses. The tallest building, the gymnasium, is 17.5 feet in height at its closest point to the westerly property line. All proposed buildings meet this setback requirement.
10. A traffic report prepared by Hexagon Transportation Consultants, Incorporated was prepared in July, 2001 which identified potential impacts of the proposed school on the surrounding transportation system. The report identifies significant impacts at the intersections of White Road and Ocala Avenue and White Road and Story Road. Mitigation has been included in the project to reduce these impacts to less-than-significant level.
11. A noise report prepared by Edward Pack and Associates dated July 12, 2001, assesses the potential noise generated from the outdoor courts proposed to be located at the southernmost corner of the site immediately adjacent to the single-family rear yards. The report concludes that the proposed outdoor activities on the hardcourt play area would not substantially increase the existing noise levels. In particular, the calculated noise generated at the play area immediately adjacent to the single-family rear yards is 55 LDN, which meets land use compatibility guidelines specified in the General Plan. The project as proposed would include installation of a seven-foot masonry wall along the perimeter of the project site adjacent to single-family rear yards to further minimize noise from the project. In addition the project has been conditioned to limit use of the outdoor play areas to school hours.
12. The Zoning Ordinance parking requirement for private schools is one parking space per teacher/staff member for elementary schools and one parking space per teacher/staff plus one parking space for each five (5) students for private secondary schools. The school is proposing a maximum of 20 teachers and staff and 60 secondary school students (grades 9 through 12) for a total parking requirement of 32 spaces. The parking requirement for a church is one space per 4 seats or six linear feet of pew. Based on the existing 160 maximum seating capacity in the sanctuary, the parking requirement is 40 spaces. The project includes a total of 72 parking spaces in conformance with the requirements in the Zoning Code. A condition in the Permit would limit use of the sanctuary during the time that the school program is in operation to ensure that there are no parking impacts on the surrounding area.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.

3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with the Commercial Design Guidelines.
5. The project is compatible with the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### **CONDITIONS PRECEDENT**

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. Acceptance and Payment of Recording Fees. The "Acceptance of Permit and Conditions" form shall be signed, notarized, and returned to the Department of City Planning within 60 days from the date of issuance of the resolution granting the permit. Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit. Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.



2. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the applicant shall revise the project plans to include the item listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall cause this permit to automatically expire.

- a) Revise plans to change the proposed outdoor play area to turf to the maximum possible extent.

3. **Site Development Permit.** This permit fulfills the requirement for a Site Development Permit.

### **CONCURRENT CONDITIONS**

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Conditional Use Permit Mount Calvary School," dated August 8, 2001 last revised November 9, 2001 on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
3. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. The City must abate any such nuisance immediately upon notice.
4. **Construction Impact Mitigation Measures.** The developer shall implement the following construction impact mitigation measures for the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions shall be cause for shutdown of the project until compliance can be ensured.
  - a. *Hours.* Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit, except that construction activities within fully enclosed buildings that do not generate any noise that is audible outside the building may be permitted on weekends between the hours of 7:00 a.m. and 7:00 p.m.

- b. *Deliveries.* Construction deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
- c. *Fencing.* The site shall be wholly enclosed by temporary security fencing during the construction of the project. The gates to the project site shall remain locked during the hours when construction is not allowed, except for a fifteen minute period immediately preceding and following the above hours of construction.
- d. *Assembly Area.* Workers shall not arrive onto the site prior to 7:00 a.m, except that the applicant may designate a location away from adjacent residential units for workers to wait between 6:45 a.m. and the commencement of construction at 7:00 a.m.
- e. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.
- f. *Street Cleaning and Dust Control.* During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
- g. *Contract Documents.* These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors. In addition, the applicant/developer is responsible to ensure the following occur prior to the issuance of a Building Permit for the project:
- h. *Disturbance Coordinator.* A Disturbance coordinator shall be identified by the developer for this project. The Disturbance coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit.
- i. *Daily Log.* The Disturbance coordinator shall maintain a log of daily activities on the project, including but not limited to, verification of site closure activities, project cleanliness, complaints on site activities and conditions and dates and times of the coordinators visits to the project if the coordinator is not solely responsible for this project site.
- j. *Telephone Number.* A phone with answering machine for non-work hours shall be maintained during the duration of project construction. The phone number should be a local call for surrounding residents.
- k. *Posting.* The name and phone number of the disturbance coordinator, the hours of construction limitations, City File Number CP01-06-046, a City contact and phone number (department and phone number), shall be displayed on a weatherproof sign posted at each entrance to the project site.

5. **Non-Compliance.** The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site at any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice to Noncompliance in conformance with Section 20.44.160 of Title 20 of the San Jose Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall be revoked, suspended, or modified if the noncompliance is not corrected.
6. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
7. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. Electroliers shall not exceed 16 feet above grade.
8. **Roof Equipment.** All roof equipment shall be screened from view. Noise from mechanical equipment shall not exceed 55 DNL at the adjacent residential property lines.
9. **Outside Storage.** No outside storage is permitted.
10. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308. (408) 277-5161, and is subject to the following requirements (3-13761) to the satisfaction for the Director of Public Works.
  - a. *Fees.* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plan connection fees, less previous credits, are due and payable.
  - b. *Geology.*
    - (1) A grading permit is required prior to issuance of a Public Works Clearance. The construction operation shall control the discharge or pollutants (sediments) to the storm drain system from the site.
    - (2) A soil investigation report addressing the potential of liquefaction must be submitted to reviewed and approved by the Project Engineer and/or City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation shall be consistent with the guidelines published by the State of California (CDMH Spec. Publ. 117) and Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet shall be explored and evaluated in the investigation.
  - c. *Utility Undergrounding fee.* Prior to issuance of a Public Works Clearance, the project developer shall pay a fee for all of the frontage adjacent to White Road. One hundred (100) percent of the amount identified in the City's adopted Fee Ordinance for the street frontage for that portion of the site adjacent to White Road to be used in accordance Section 15.26 of the San Jose Municipal Code, Utility Undergrounding Fee. (Currently the base fee is \$112 per linear foot of frontage).

- d. *Sanitary Sewer.* The project developer shall acquire a private sanitary sewer easement from the neighboring property in order to connect to the sanitary sewer main in Moss Point Drive to the satisfaction of the director of public Works.
- e. *Storm.* The applicant shall submit a revised grading/drainage plan to include the following:
  - (1) Indicate the overland release path arrows.
  - (2) The release path must be paved
  - (3) The project developer shall acquire a private storm drainage release easement from the neighboring property to the satisfaction of the Director of Public Works.
- f. *Electrical.*
  - (1) At no cost to the City the project developer shall install electroliers(s) on the project frontage to the satisfaction of the Director of Public Works.
  - (2) The project developer shall provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10-feet in commercial areas.
- g. *Street Improvements.*
  - (1) Applicant shall provide a revised site plan to show the southerly driveway maintaining its width for a minimum of 20-feet behind the back of the sidewalk.
  - (2) Applicant shall, at no cost to the City, remove and replace broken or uplifted curb, construct curb, gutter and sidewalk along the White Road frontage to the satisfaction of the Director of Public Works.
  - (3) Close all unused driveways to the satisfaction of the Director of Public Works.
  - (4) Repair, overlay, or reconstruction of asphalt pavement as required to the satisfaction of the Director of Public Works.
- h. *Inlet Filters.* The project developer shall install inlet filters in all on-site storm drainage inlets. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:
  - (1) *Installation.* The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintenance by the project developer and subsequent property owner.

- (2) *Maintenance Record.* The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.
  - (3) *Regular Sweeping.* Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
  - (4) *Regular Inspections.* The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
  - (5) *Replacement of Absorbent Material.* The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
  - (6) *Disposal of Used Absorbent Material.* Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
  - (7) *Replenishment of Absorbent Materials Supply.* The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
  - (8) *Storm Water Management Plan.* The project shall conform with the City of San Jose National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the Blueprint for a Clean Bay to control the discharge of storm water pollutants including sediments associated with construction activities. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, Room 308, 801 N. First Street, San Jose California 95110-1795. The Erosion Control Plan may include BMPs as specified in ABAG's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161
  - (9) *Storm Water Stenciling.* All drain inlets shall be labeled "No dumping—Flows to Bay." Please contact the City of San Jose, Department of Public Works, at (408) 2775161 to obtain free stencils.
- i. *Landscape.* Install street trees within the public right-of-way along the entire street frontage per City standards. Trees shall be installed in cutouts at the back of curb. Contact the City Arborist at 277-2756 for the designated street tree.
  - j. *Traffic.* Prior to issuance of a Public Works Clearance the project shall implement the following traffic mitigation measures to the satisfaction of the Director of Public Works.

- (1) Lengthen northbound White Road/Story Road left-turn pocket from 200 feet to 370 feet to the satisfaction of the Director of Public Works.
  - (2) Lengthen the eastbound White Road/Ocala Avenue left-turn pocket from 200 feet to 240 feet to the satisfaction of the Director of Public Works.
  - (3) At the intersection of White Road and Ocala Avenue the project developer shall change the westbound through lane and right turn lane into separate lanes by re-striping the westbound leg. The project developer shall acquire right-of-way as necessary and shall modify the signal to the satisfaction of the Director of Public Works.
- k. *Lot Combining.* Prior to issuance of a Public Works Clearance the applicant shall record a Lot Line Adjustment or Lot combining approved by the Director of Planning, Building and Code Enforcement to legally combine individual parcels which comprise the subject site.
- l. *Reimbursement.* The project developer shall reimburse the City for all costs advanced for the construction of street improvements along White Road in accordance with City Ordinance No, 19663.
- m. *Minor Improvement Permit.* The applicant shall satisfy all Public Works conditions prior to issuance of a Public Works Clearance. The clearance will require the execution of a minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This Permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
11. **Building Clearance for Issuing Permits.** Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* The permit file number CP01-06-046, shall be printed on all construction plans submitted to the Building Official.
  - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San Jose Police Department.
  - c. *American Disabilities Act.* The applicant shall provide appropriate access as required by the American Disabilities Act.
  - d. *Demolition Permit.* Obtainment of a Demolition Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions. No demolition of the structure may be implemented unless and until the Building Division issues a Demolition Permit pursuant to Section 301 of the Uniform Building Code, as adopted pursuant to the provision of Chapter 17.04 of Title 17 of the San Jose Municipal Code.

- e. *Archaeology*. There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric and/or historic resources.
- (1) If no resources are discovered, the archaeologist shall submit a report to the Director of Planning, Building and Code Enforcement verifying that the required monitoring occurred and that no further mitigation is necessary.
  - (2) If evidence of any archaeological, cultural and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, Building and Code Enforcement, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial and curation of archaeological resources).
  - (3) In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
    - (a) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
    - (b) A final report shall be submitted to the Director of Planning, Building and Code Enforcement prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resource analysis methodology and conclusions and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning, Building and Code Enforcement.
12. **Fire Flow**. Required fire flow for the site is 3,000 gpm, or as otherwise approved in writing by the Fire Chief.

13. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of Fire Department to the satisfaction of the Fire Chief.
14. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
15. **Fire Lanes.** Fire Lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.
16. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose municipal Code on the site must be used and stored in full compliance with the City's Hazardous Materials Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
17. **Tree Preservation Guidelines.** All construction activity and subsequent monitoring must comply with mitigation measures in Initial Study/Negative Declaration prepared on September 2001. In addition, the proposed sound wall shall be designed and constructed to minimize potential impacts to the root systems of proximate on-site and off-site trees.
18. **On-site lighting.** On-site lighting between the hours of sunset to sunrise shall be dimmed to reduce light and glare.
19. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
20. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, wall and fence surfaces within 48 hours of defacement.
21. **Private School Hours of Operation.** Use of the private school facilities for school activities shall be limited to the hours of from 6:00 a.m. to 12:00 midnight.
22. **Coordination of School Start Times.** The school shall stagger the start times of the elementary school, middle and high school at a minimum of 15-minute intervals to the satisfaction of the Director of Planning.
23. **Limitations on Timing of Church and School Uses.** The church sanctuary shall not be used for church assembly purposes during the hours the school is in operation. The school shall not hold evening or weekend events during any time that the sanctuary is in use for church assembly purposes. Use of the outdoor courts shall be limited to the hours of 8:00 a.m. to 4:00 p.m.



24. **Maximum Number of Students and Staff.** The maximum number of students enrolled in the elementary school (grades kindergarden through 5) shall be limited to 90 students; middle school (grades 6 through 8) shall be limited to a maximum of 45 students; and the high school (grades 9 through 12) shall be limited to a maximum of 60 students. The maximum number of teachers, staff and administrators shall be 20.
25. **Noise Limits.** Noise generated by the use shall not be subject to the Title 20 noise performance standards. Noise generated by the school shall not exceed 55 dB DNL at the adjacent residential properties.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
  2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
    - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
    - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
    - c. The use as presently conducted creates a nuisance.
- cc. Greg Blackwell, Greg Blackwell, Incorporated 715 North First Street, Suite 30, San Jose, CA 95112  
Marvin Bamburg, MBA Architects, 1176 Lincoln Avenue, San Jose, CA 95125